IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1047 OF 2006.

Mahadeo Yashwant Pawar. ... Appellant.
Versus.
Ganpati Dnyandeo Pawar
since deceased through LRs.
Sunil Ganpati Pawar & others. ... Respondents.

Shri R.R.Bhonsale for the Appellant.

Shri Dilip Bodake for the Respondents Nos.1A to 1D.

CORAM : ABHAY S.OKA, J.

DATED : 20th November, 2007.

P.C.:

1. Heard the learned Advocate for the Appellant. The Appellant is the unsuccessful first Defendant. The learned Advocate for the Appellant assailed the decree for possession passed by the trial Court and confirmed by the Appellate Court. He submitted that the rectification of the sale deed was made without notice to the Appellant and in fact at the time of rectification, the 1st Defendant/Appellant was in possession of the suit property. He submitted that the original Plaintiff has not established his title. He invited my attention to various findings recorded by the Courts below.

2. I have considered the submissions. The first point for determination framed by the first Appellate Court is as regards the title of the original Plaintiff.

The second point is as regards the plea of adverse possession of the Appellant. Thus it appears that the plea of adverse possession was canvassed in the Appeal before the first Appellate Court by the Appellant. However, the said plea of adverse possession has been negatived by the Appellate Court. In so far as the plea of adverse possession is concerned, there are concurrent findings of fact recorded by the Courts below holding that the Appellant has failed to establish the hostile possession. It is very difficult to find fault with the concurrent findings of fact recorded by the Courts below on this aspect. Once the plea of adverse possession raised by the Appellant is negatived, no fault can be found with the findings given by the Courts below on the issue of title of the original Plaintiff.

3. No substantial question of law arises. The Second Appeal is dismissed.

Judge.